

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:01-00152

PATRICK O. EMIOHE

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On January 12, 2006, the United States of America appeared by Erik S. Goes, Assistant United States Attorney, and the defendant, Patrick Emiohe, appeared in person and by his counsel, Edward H. Weis, Assistant Federal Public Defender, for a hearing on the petition on supervised release submitted by Senior United States Probation Officer John B. Edgar, the defendant having commenced a three-year term of supervised release in this action on September 27, 2002, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on March 27, 2002.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found that the defendant has violated the conditions of supervised release in the following respects: (1) that the defendant committed the offense of child neglect which occurred on August 25, 2005, for which he was arrested on September 15, 2005, in that he neglected his infant child to the point that the child came into contact and ingested an unknown amount of cocaine and was taken to the hospital where the child tested positive for cocaine as evidenced by the defendant's acknowledgment on the record of the hearing that the government possesses proof to prove the offense by a preponderance of the evidence; (2) that the defendant used cocaine and marijuana as evidenced by a positive urine screen on June 5, 2003; (3) that the defendant used marijuana as evidenced by positive urine screens on January 13, June 30, August 12, September 15, November 2 and December 9, 2004; (4) that the defendant failed to appear for urinalysis testing as directed by the probation officer on April 22, 2003; February 9 and 19, March 8, 16 and 22, April 14, August 31, September 22, October 15 and 28, November 23, and December 15, 2004; and January 25, 2005; and (5) that the defendant has failed to maintain full-time employment since his supervised release

term began on September 27, 2002; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

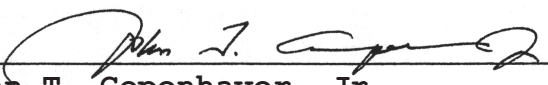
And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, on the basis of the original offense and the intervening conduct of the defendant, that the defendant is in need of correctional treatment which can most effectively be provided if he is confined, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of FOUR (4) MONTHS to be followed by a term of THIRTY-TWO (32) MONTHS supervised release, upon the sixteen standard conditions of supervised release in effect in this district and the further

condition that the defendant not commit another federal, state or local crime and the special condition that he participate in the six-month residential PARCER program which shall commence immediately upon his release or as soon thereafter as a bed is available and shall participate in the after-care program on an outpatient basis so long as the probation officer directs. It is further ORDERED that, with respect to defendant's four-month term of imprisonment, he shall receive credit for time served while in custody awaiting hearing and sentencing from September 29, 2006, to January 12, 2006.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: January 30, 2006



John T. Copenhaver, Jr.
United States District Judge